

ORIGINAL

Jerry J. Jarzombek
 855 Texas Street, Suite 140
 Fort Worth, Texas 76102
 Voice: 817-348-8325
 Fax: 817-348-3828

U.S. DISTRICT COURT
 NORTHERN DISTRICT OF TEXAS

FILED**OCT 29 2013**

CLERK, U.S. DISTRICT COURT
 By *LM*
 Deputy

3:07

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF TEXAS
 FORT WORTH DIVISION

ELAINE D. RUECK,

Plaintiff,

vs.

ANH H. REGENT d/b/a REGENT &
ASSOCIATES,

Defendants.

§ Civil Action No.

4-13-CV-879-0

COMPLAINT
 and
DEMAND FOR JURY TRIAL

(Unlawful Debt Collection Practices)

Preliminary Statement

1. Plaintiff, Elaine D. Rueck ("Rueck"), brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA"), as well as under the Texas Debt Collection Act, Tex. Finance Code § 392.001, *et seq.* ("TDCA") and the Texas Deceptive Trade Practices Act, Subchapter E, Chapter 17, Business & Commerce Code ("DTPA"), to obtain statutory damages, actual damages, injunctive relief, declaratory relief, and other relief for the Defendant's violations of the FDCPA, the TDCA and the DTPA.

2. Defendant, Anh H. Regent d/b/a Regent & Associates ("Regent") attempted to collect a consumer debt allegedly owed by Plaintiff, arising from a purported obligation to Calvary SPV I, LLC ("Cavalry"). Cavalry claims to have acquired the Debt from Bank of America ("BOA"). The obligation ("Debt") required Plaintiff to pay money arising out of transactions in which money, property, insurance, or services were the subject thereof and the same were primarily for personal, family, or household purposes. Specifically, the alleged debt arose from a credit card, which was used by the Plaintiff for non-business purposes, including daily living expenses.

Jurisdiction and Venue

3. Jurisdiction of this Court attains pursuant to 15 U.S.C. § 1692k(d), 28 U.S.C. §§ 1331 and 1337(a), and the doctrine of supplemental jurisdiction for the TDCA and DTPA claims pursuant to 28 U.S.C. § 1367.

4. Venue in the Northern District of Texas is proper under 28 U.S.C. § 1391(b)-(c) and because the acts and transactions occurred here and the Defendant transacts business here.

Parties

5. Plaintiff is a citizen of the State of Texas. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3) and Tex. Finance Code § 392.001(1).

6. Regent is an individual engaged in the business of collecting consumer debts in the Northern District of Texas. Regent uses the assumed name, Regent & Associates. The principal purpose of Regent's business is the collection of consumer debts using the mails and telephone, and he regularly attempts to collect consumer debts for others. Regent is a "debt collector" as defined by

15 U.S.C. § 1692a(6) and Tex. Finance Code § 392.001(6). Regent is also a "third-party debt collector" as defined by Tex. Finance Code § 392.001(7).

Factual Allegations

7. During September and/or October of 2013, an employee or representative of Regent who identified herself as "Tammy Coleman" telephoned Plaintiff regarding the debt that Regent was collecting on behalf of Cavalry. "Tammy" provided Plaintiff with the telephone number of 888-467-7944, extension 108. However, the number which appeared on Plaintiff's cellular telephone was 713-333-7165.

8. "Tammy" told Plaintiff that a lawsuit would be filed against her in Tarrant County, Texas. In an effort, perhaps, to encourage Plaintiff to voluntarily send money to Regent, or to scare Plaintiff, "Tammy" made some representations about the results of the lawsuit, which included:

- a. that bank accounts belonging to Plaintiff would be seized;
- b. that "they" would take Plaintiff's car;
- c. that "they" would come into Plaintiff's home and take whatever they could;
- d. that "they" would take Plaintiff's jewelry.

9. As to Plaintiff's bank accounts, most of the money belonging to this seventy-three year old lady comes from the Social Security Administration, and is therefore exempt from seizure by creditors.

10. As to Plaintiff's vehicle, it is not subject to seizure to satisfy the Debt claimed by Cavalry. Specifically, the Texas Property Code provides that "the following personal property is exempt under Section 42.001(a): ... a two-wheeled, three-wheeled, or four-wheeled motor vehicle

for each member of a family or single adult who holds a driver's license or who does not hold a driver's license but who relies on another person to operate the vehicle for the benefit of the nonlicensed person." TEX. PROP. CODE § 42.002(a)(9).

11. The foregoing acts and omissions were undertaken on behalf of the Defendant by its respective officers, agents, or employees acting at all times relevant hereto within the scope of that relationship.

12. The foregoing acts and omissions of the Defendant were undertaken by Defendant willfully, intentionally, knowingly, and/or in gross disregard of the rights of the Plaintiff.

13. The foregoing acts and omissions of the Defendant were undertaken indiscriminately and persistently, as part of Defendant's regular and routine collection efforts, and without regard to or consideration of the identity or rights of the Plaintiff.

14. The foregoing acts and omissions of the Defendant were material, in that Defendant intended that the Plaintiff rely on these false representations, and based on that reliance, allow herself to be coerced into sending money to Regent.

First Claim for Relief

15. The Plaintiff repeats, realleges, and incorporates by reference the foregoing paragraphs. The Defendant's violations of the FDCPA include, but are not limited to the following:

- a. In violation of 15 U.S.C. § 1692e, 15 U.S.C. § 1692e (2)(a), 15 U.S.C. § 1692e(10), and the "least sophisticated consumer standard," Defendant used objectively false representations and/or false, deceptive, or misleading representations or means in connection with the collection of a consumer debt. The false representations were material, as Defendant intended to cause Plaintiff to pay money as a result of Plaintiff's reliance on these representations.

- b. In violation of 15 U.S.C. 1692e(5) and the "least sophisticated consumer standard," the Defendant threatened to take an action which cannot legally be taken or that is not intended to be taken. The false representations were material, as Defendant intended to cause Plaintiff to pay money as a result of Plaintiff's reliance on these representations.
- c. In violation of 15 U.S.C. § 1692g, at no time (specifically including the five days after the Defendant's initial communication with the Plaintiff in connection with the collection of a consumer debt) did the Defendant send the following information:
 - i. The amount of the debt.
 - ii. The name of the creditor to whom the debt is owed.
 - iii. A statement that unless the Plaintiff, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the Defendant.
 - iv. A statement that if the Plaintiff notifies the Defendant in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the Defendant will obtain verification of the debt or a copy of a judgment against the Plaintiff and a copy of such verification or judgment will be mailed to the Plaintiff by the Defendant.
 - v. A statement that, upon the Plaintiff's written request within the thirty-day period, the Defendant will provide the Plaintiff with the name and address of the original creditor, if different from the current creditor.

16. Under 15 U.S.C. § 1692k, Defendant's violations of the FDCPA render him liable to Plaintiff for statutory damages, actual damages, costs, and reasonable attorney's fees.

Second Claim for Relief

17. The Plaintiff repeats, realleges, and incorporates by reference the foregoing paragraphs. The Defendant's violations of the TDCA include, but are not limited to the following:

- a. In violation of Tex. Fin. Code § 392.301(a)(8), the Defendant threatened to take (and/or did take) an action prohibited by law.

- b. In violation of Tex. Fin. Code § 392.302(1), the Defendant used language intended to abuse unreasonably the reader or hearer thereof.
- c. In violation of Tex. Fin. Code § 392.304(a)(8), the Defendant misrepresented the character of a consumer debt.
- d. In violation of Tex. Fin. Code § 392.304(a)(19), Defendant used false representations and deceptive means to collect a consumer debt.

18. Under Tex. Fin. Code Ann. § 392.403, the Defendant's violations of the TDCA render him liable to Plaintiff for statutory damages, actual damages, injunctive relief, declaratory relief, costs, and reasonable attorney's fees.

Third Claim for Relief

19. The Plaintiff repeats, realleges, and incorporates by reference the foregoing paragraphs.

20. Pursuant to Tex. Fin. Code Ann. § 392.404, the Defendant's violations of the TDCA also constitute a deceptive trade practice under Subchapter E, Chapter 17, Business & Commerce Code, ("DTPA") and are actionable under that subchapter.

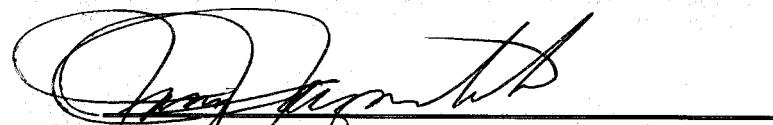
21. Under Tex. Bus. & Com. Code Ann. § 17.50(b)(2), the Defendant's violations of the DTPA render him liable to Plaintiff for injunctive relief and reasonable attorney's fees.

Prayer for Relief

WHEREFORE, the Plaintiff prays that this Court:

1. Declare that Defendant's actions violate the FDCPA, the TDCA and the DTPA.
2. Enjoin the Defendant's actions which violate the TDCA and the DTPA.
3. Enter judgment in favor of Plaintiff and against Defendant for statutory damages, actual damages, costs, and reasonable attorneys' fees as provided by 15 U.S.C. § 1692k(a) and/or Tex. Fin. Code Ann. § 392.403 and/or Tex. Bus. & Com. Code § 17.50(d).
4. Grant such further relief as deemed just.

Respectfully submitted,

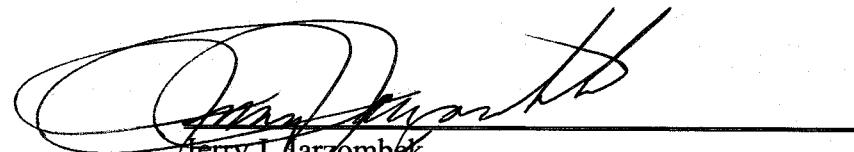


Jerry J. Jarzombek
Texas Bar No. 10589050
855 Texas Street, Suite 140
Fort Worth, Texas 76102
817-348-8325
817-348-8328 facsimile

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury in this action.

Respectfully submitted,



Jerry J. Jarzombek
Texas Bar No. 10589050
855 Texas Street, Suite 140
Fort Worth, Texas 76102
817-348-8325
817-348-8328 facsimile

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Elaine D. Rueck

**(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)**

**DEFENDANTS**

Anh H. Regent d/b/a Regent & Associates

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

NOTE:

Attorneys (If Known)

4-13 CV 879-0

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF	DEF	PTF	DEI
<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/>
<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/>

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FOREFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability			<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander			<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability			<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine			<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability			<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle			<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice			<input checked="" type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 891 Agricultural Acts
				<input type="checkbox"/> 893 Environmental Matters
				<input type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 896 Arbitration
				<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
				<input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	IMMIGRATION	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 462 Naturalization Application	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition)	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 465 Other Immigration Actions	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 535 Death Penalty		
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other		
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN

(Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation
---	---	--	---	--	---

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 USC 1692 et seq**VI. CAUSE OF ACTION**Brief description of cause:
Unlawful debt collection**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 10,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S) PENDING OR CLOSED:**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10/29/2013

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # FIN020615

AMOUNT

400.00

APPLYING IFFP

JUDGE

MAG. JUDGE